

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEFFREY O. SWOPE.

Plaintiff,

-against-

FIDUCIARY ASSET MANAGEMENT, LLC.

Defendant.

DECLARATION OF

TODD A. HIGGINS

Case No. 07-CV-6921 (BSJ)

TODD A. HIGGINS, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. My name is Todd A. Higgins and I am a partner at the law firm of Crosby & Higgins LLP. I represent the Plaintiff Jeffrey O. Swope ("Swope") in the above-captioned action and submit this declaration in support of Swope's Opposition to Defendant's Motion to Dismiss the Complaint.
2. The procedural history of this case prior to these instant proceedings is outlined in detail in the opposition papers submitted by Swope in the United States District Court, Eastern District of Missouri, Eastern Division action. Swope's Memorandum of Law in Opposition to FAMCO's Motion for Entry of Default and Grant of Default Judgment and Motion for Costs and In Support of Swope's Cross Motion to Dismiss the Complaint, the sworn Affidavit of Jeffrey O. Swope, and Affirmation of Todd A. Higgins are hereto attached as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of August, 2007
New York, New York

/s/ Todd A. Higgins
Todd A. Higgins